

## **SUBCHAPTER A : GENERAL PROVISIONS**

### **§301.1. Interpretation of Legislative Authority.**

The legislature of the State of Texas has manifested an intention to protect the public interest by establishing a centralized and coordinated method for planning and review of drainage and reclamation activity. The legislature has demonstrated such an intent by causing levees or other improvements and levee improvement district plans of reclamation and associated projects to be subject always to the supervision of a central statewide authority. It is the purpose of the Texas Water Commission pursuant to the Texas Water Code Chapters 5, 16, and 57, to implement this policy by the promulgation of these sections.

### **§301.2. Definitions.**

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

**As-built plans** - The engineering plans and specifications for levees or other improvements which reflect the structures as actually built, for which preliminary plans and final plans were approved, and which are submitted to the executive director of the Texas Water Commission for his issuance of notice of final approval.

**Final plans** - The final engineering plans and specifications for levees or other improvements submitted to the executive director of the Texas Water Commission for his review and approval if not an exempt structure under the Texas Water Code, §16.236.

**Levee improvement district or district** - Any levee improvement district organized under the provisions of the Texas Water Code, Chapter 57.

**Levee(s) or other improvement(s)** - Any levee or other improvement, including channel improvements, drainage works, or other projects on, along, or near any stream in this state that is subject to floods, freshets, or overflows, constructed so as to control, regulate, or otherwise change the floodwater of the stream. However, the term does not include:

(A) levees or other improvements for which approval by the Texas Water Commission is not required pursuant to the Texas Water Code, §16.236;

(B) bridges, culverts, and roads that are not designed or constructed with the primary purpose to and that do not significantly control, regulate, or otherwise change the floodwaters of a stream;

(C) drainage works which do not directly connect to a stream;

(D) projects which, when completed, will receive runoff from an area of less than five square miles measured to the lowest point of construction;

(E) fences;

(F) cutting, clearing, or removing vegetation; and

(G) levees and landfills located within the 100-year flood-fringe area, as defined in clauses (i)-(iv) of this subparagraph, as determined by a registered professional engineer using the

United States Army Corps of Engineers Hydrologic Engineering Center I and II procedures or other standard procedure acceptable to the executive director of the Texas Water Commission.

(i) 100-year flood - the peak flood discharge of a stream, based upon statistical data, which would have a 1.0% chance of occurring in any given year.

(ii) 100-year flood fringe - that area of the 100-year floodplain outside the 100-year floodway.

(iii) 100-year floodplain - that area along a stream during the time the stream is subject to the statistical 100-year flood, as determined by a registered professional engineer using the United States Army Corps of Engineers Hydrologic Engineering Center I and II procedures or other standard procedure acceptable to the executive director of the Texas Water Commission.

(iv) 100-year floodway - the channel of a stream and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot above the 100-year flood elevation prior to encroachment.

**Plan of reclamation** - The proposed plan of reclamation after approval by the Texas Water Commission.

**Preliminary plans** - The preliminary engineering plans for levees or other improvements submitted for approval by the Texas Water Commission pursuant to the Texas Water Code, Chapter 16, as required by §301.33 of this title (relating to Preliminary Plans: Data To Be Submitted).

**Proposed plan of reclamation** - The application filed by a levee improvement district for approval by the Texas Water Commission, which is composed of the district engineer's reclamation report (termed "engineer's report" in the Texas Water Code, §57.154) which shall include economic data as specified in §301.23 of this title (relating to Data Required for Applications for Proposed Plans of Reclamation and Criteria Applicable to Proposed Plans of Reclamation), maps and profiles of results of land surveys, and which shall include preliminary plan data required by §§301.31-301.46 of this title (relating to Approval of Levees and Other Improvements).

### **§301.3. Authority To Go On Land.**

Representatives of the executive director of the Texas Water Commission may enter any land or go on any water with appropriate equipment for the purpose of surveillance and inspection with reference to the proposed location of levees or other improvements.

### **§301.4. Approvals Required.**

In accordance with the Texas Water Code, Chapters 16 and 57, the approvals set forth in paragraphs (1) and (2) of this section are required:

(1) the approval of the Texas Water Commission for the following:

(A) levee improvement district proposed plans of reclamation. The procedure for submission and approval of district proposed plans of reclamation is set forth in §301.5 of this title (relating to Proposed Plan of Reclamation: Consolidated Proceeding) and in §§301.21-301.23 of this title (relating to Levee Improvement Districts and Approval of District Plans of Reclamation);

(B) preliminary plans for construction of levees or other improvements other than those which are exempt under the Texas Water Code, §16.236. The procedure for submission and approval of preliminary plans for levees and other improvements other than those which are exempt is set forth in §§301.31-301.46 of this title (relating to Approval of Levees and Other Improvements);

(2) the review and/or approval of the executive director for final plans for levees and other improvements. The procedure for submission, review, and approval, if required, is set forth in §301.38 of this title (relating to Procedures Subsequent to Approval of Preliminary Plans).

**§301.5. Proposed Plan of Reclamation: Consolidated Proceeding.**

The commission may at its discretion consider approval of a proposed plan of reclamation and related preliminary plans for levees and other improvements for which commission approval is required by the Texas Water Code, §16.236, in one proceeding.

**§301.6. Injunction and Monetary Penalties.**

Pursuant to the Texas Water Code, §16.236(b) and (c), the executive director of the Texas Water Commission may request the attorney general to file suit in a district court of Travis County to enjoin any such violation or threatened violation of the Texas Water Code, §16.236, to seek monetary penalties, or both.

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